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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,371	05/30/2000	NOBUYA SATO	0327-0840-3	8292

7590 08/27/2002  
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EXAMINER

PRATT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
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1771

9

DATE MAILED: 08/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/555,371

Applicant(s)

SATO ET AL.

Examiner

Christopher C. Pratt

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1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments and accompanying remarks filed 7/15/02 have been entered and carefully considered. Applicant's amendment is found to overcome the 112 indefinite rejections as well as the 103 rejection previously set forth. Despite this advance, the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Drawings***

2. The drawing submitted on 7/15/02 is acceptable.

### ***Claim Rejections - 35 USC § 112***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 11-12 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is indefinite because of the phrase "configured absorb water and oil." What "configuration" processes are done to the fabric in order to render it absorbent? The specification does not teach special "configurations."

Claim 15 does not limit the metes and bounds of the claim because it does not clearly describe the structures it refers to. It appears that applicant is describing the

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inherent results of embossing a web to create convex portions. If this is the case then the claim is redundant and unnecessary because it merely describes a structure already claimed.

***Claim Rejections - 35 USC § 103***

5. Claims 1-8 and 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGuire et al (6254965 B1) in view of Akahori et al (5310587) and Asahi (JP 404154573A).

McGuire is concerned with the creation of a wrap material (col. 19, lines 1-22) comprising a hydrophobic (col. 17, line 17) nonwoven web (col. 17, line 11). Said web having a plurality of convex portions created by embossing (col. 20, line 40 and fig. 1). The examiner notes that applicant's convex portions are also created by embossing (p. 2, lines 25-30 of the instant specification). McGuire teaches that said web can range from permeable to nonpermeable, but fails to disclose specific permeability ranges (col. 17, line 16).

Akahori and Asahi are concerned with the creation of a wrapping material. Both teach applicant's claimed air permeability and water resistance. It would have been obvious to a person having ordinary skill in the art to render McGuire's material within the air and water permeability ranges taught by Akahori and Asahi. Such a modification would have been motivated by the desire to optimize the barrier properties of McGuire's wrapping material.

McGuire seems to teach a thickness below 1mm. However, it would have been obvious to a person having ordinary skill in the art to increase the thickness of

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McGuire's material, since such a modification would only involve a mere change in the size of the invention. Said modification would have been motivated by the desire to increase the absorbent capabilities of the material and to increase protection to substance wrapped in the material.

If the compressive recovery of McGuire's material is not inherently 30% or greater then it would have been obvious to a person having ordinary skill in the art to increase its compressive recovery. Such a modification would have been motivated by the desire to provide increased protection to substances wrapped in the material.

McGuire teaches that said convex portions can be varied to have any density, shape, or height (col. 7, lines 60-61). As such, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to form said portions having applicant's height, pitch, and spacing, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105, USPQ 233. The skilled artisan would have been motivated to alter the variables of the protrusions by the desire to optimize the permeability and/or bulk of the material.

McGuire teaches the use of multiple layer laminates (claim 1), but does not specifically teach the composition of these layers. Akahori teaches a wrapping material comprising multiple nonwoven layers formed from ultra fine fibers (col. 2, lines 45-60 and col. 3, lines 18-21). It would have been obvious to a person having ordinary skill in the art to combine the additional layers of Akahori with McGuire. Such a combination

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would have been motivated by the desire to improve the absorbent capabilities of McGuire.

McGuire teaches applicant's claimed polyolefins (col. 17, lines 64-65).

McGuire teaches the use of cellulose fibers, but does not specifically teach the source of said cellulose (col. 17, lines 11-12). The examiner takes official notice that it is common and well known in the art to utilize rayon, pulp and cotton as cellulose fibers. As such, it would have been obvious to a person having ordinary skill in the art to utilize these sources. Such a modification would have been motivated by the desire to reduce the teachings of McGuire to practice. The examiner notes that the facts asserted to be common and well-known are capable of instant and unquestionable demonstration as being well-known. To adequately traverse such a finding, an applicant must specifically point the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Christopher C. Pratt  
August 23, 2002



CHERYL A. JUSKA  
PRIMARY EXAMINER